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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Periodic reports of States Parties due in 1997

Addendum

COSTA RICA*

[20 January 1998]

* The annexes may be consulted in the archives of the secretariat.

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INTRODUCTION

1. The Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, is one of the most important human rights documents to be approved by the United Nations Organization. This was the first international instrument to establish universal principles and standards concerning the legal status of children and adolescents. With this Convention, which embraces civil, political, social and cultural rights, children and adolescents were recognized as active social subjects of law.

2. The Constitution of the Republic of Costa Rica establishes and guarantees the fundamental rights of every individual without any distinction, in particular, with respect to age. Moreover, articles 51 and 55 provide for a special protection regime for children and adolescents, thereby establishing the general principle of concern for that group. Universal free education from the pre-school stage is also guaranteed.

3. Accordingly, from the outset, the Government of Costa Rica gave its total support to the initiative to draw up a Convention on the Rights of the Child, participating actively in the discussion and analysis of the various aspects to be incorporated in that document.

4. Before Costa Rica approved the Convention, an Inter-Institutional Commission, coordinated by the Office for the Defence of Children (Children's Ombudsman), was set up for the purpose of examining all its provisions and foreseeing the legal and social policy implications, as well as acting as a technical adviser to the Costa Rican delegation to the United Nations Commission on Human Rights, the body responsible for discussing and finalizing the text of the Convention.

5. The Republic of Costa Rica, together with the rest of the Central American countries, was notable for its promptness in approving and ratifying the Convention, which led to its undertaking a series of commitments involving the adoption of measures at national, regional and international levels.

6. At national level, for the purpose of giving effect to the obligations assumed under the Convention, a National Committee on the Rights of the Child was established as a result of the adoption of Executive Decree No. 19884-PJ of 23 August 1990. This Committee is responsible for making known the principles of the Convention, incorporating it into social policies, amending the legislation and preparing reports for the Committee on the Rights of the Child. At the regional and international levels, Costa Rica has actively participated in the World Summit for Children which adopted, by consensus, the World Declaration on the Survival, Protection and Development of Children.

8. Likewise, at the XI Summit of Central American Presidents (Teguicigalpa, 1991), the countries of Central America undertook to carry out a Plan of Action for the purpose of implementing the recommendations of the World Declaration on the Survival, Protection and Development of Children. In Costa Rica, this programme was called the "Plan of Action for Human Development, Children and Youth" and submitted by the Government in 1992.

9. At the Latin American level, the World Summit's commitments were reflected and amplified in the so-called Nariños Agreements (Colombia, 1994) which reaffirmed the need to implement the commitments undertaken and at the same time to make efforts to tackle poverty and reduce cultural and social inequalities.

10. Moreover, the Republic of Costa Rica has ratified a series of conventions aimed at protecting the human rights of women, children and adolescents such as: the Convention on the Elimination of All Forms of Discrimination Against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. These instruments reiterate and guarantee the fundamental rights relating to security of persons and cover the mental and moral as well as physical aspects.

11. The Republic of Costa Rica has acceded to the following conventions relating specifically to children:

(a) Supplementary Cooperation Agreement on Child Welfare signed in Santiago, Chile, on 6 March 1992, which entered into force from 22 September 1993 in pursuance of article VI. The Agreement was promulgated in Costa Rica by Executive Decree No. 22413 of 30 June 1993;

(b) Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption signed on 29 May 1993, Law No. 757 of 22 June 1995 (Official Gazette No. 135 of 17 June 1995);

(c) Inter-American Convention on International Traffic in Minors signed in Mexico on 18 March 1994 at the Fifth Inter-American Specialized Conference on Private International Law;

(d) Convention on the Rights of the Child approved at the forty-fourth session of the United Nations General Assembly, signed by Costa Rica on 26 January 1990 and ratified on 21 August 1990.

12. The Convention on the Civil Aspects of International Child Abduction, adopted in the Hague on 25 October 1980, is currently awaiting approval by the Legislative Assembly (File No. 12698).

13. All this activity at the international level is consistent with the country's manifest intention to promote human rights and, more particularly, the well-being of children.

14. The fact that the Convention was adopted unanimously reinforces the obligations assumed and establishes it as a "common standard of achievement" which explicitly and implicitly defines a concept of childhood and a series of fundamental rights and freedoms for the child recognized as an individual, with acceptance of the obligation to secure by "progressive measures, national and international", their universal recognition and observance.

15. In particular, the signature and ratification of the Convention on the Rights of the Child by the Costa Rican Government has led to a broad process of national social mobilization aimed at transforming the treatment of the

subject of childhood at every level: legal, ideological and social, from everyday opinion, attitudes and social practices to the definition and organization of social policy and the legal framework governing the relations of children and adolescents with each other and with the family, the community and society in general.

16. Thus, the main consequences of the commitments undertaken upon and since signing the Convention have been as follows:

(a) Immediate application to the consideration of questions of domestic law, including both judicial and administrative procedures;

(b) The obligation to submit regular reports to the Committee on the Rights of the Child on the measures taken to give effect to the provisions adopted;

(c) The undertaking to publicize and promote the Convention among the public in general and children in particular;

(d) The undertaking to provide the basic conditions for the survival, maintenance and development of the child; and

(e) The obligation to guarantee children the right to reflect, act, and express themselves on matters which affect their own life and that of the community and to have an effective voice in any decisions taken.

17. The analysis and adaptation of the general national legal framework, in the light of the Convention on the Rights of the Child, in accordance with the principles of the hierarchy of norms, without prejudice to the obligation of effective application in matters of domestic law.

18. Thus, the results of the effort made to introduce the principles and provisions of the Convention and the difficulties encountered are incorporated in this second 1997 report on the implementation of the Convention on the Rights of the Child.

I. IMMEDIATE IMPLEMENTATION OF THE CONVENTION

19. An immediate response to the commitments undertaken as a result of Costa Rica's accession to the Convention on the Rights of the Child was the issuing of an order by the Constitutional Chamber (Chamber IV) of the Supreme Court of Justice to accept any action brought by a citizen irrespective of his or her age. Thus, anyone can institute amparo or habeas corpus proceedings who considers that he or she is the subject of discrimination or that his or her fundamental rights and freedoms are being violated. The amparo petition may be submitted in any form, the only precondition being that it must be in writing.

20. As a result of this order, children and young people can call on the Constitutional Chamber to restore rights which they consider to have been violated in their places of study. This has obliged the Constitutional Chamber to rule on questions which specifically concern children and adolescents.

21. For his part, the Ombudsman has also received a large number of complaints and inquiries from children and adolescents about problems relating to the schools and colleges and the treatment received by teachers and lecturers.

A. Periodic reports to the Committee on the Rights of the Child

22. Following Costa Rica's accession to the Convention on the Rights of the Child, the National Committee for the Implementation of the Convention was set up to make its provisions and principles known.

23. It was this Committee which, in 1992, was entrusted with the preparation of the first (initial) report under article 44 describing the achievements and shortcomings of the programme to implement the Convention.

24. Nevertheless, with a view to adapting the legislation in force to the new paradigm of the Convention on the Rights of the Child, in November 1996 the Legislative Assembly gave the National Children's Trust (PANI) a new Charter (see annex), which entailed a re-examination and transformation of its institutional function.

25. With its new Charter, the National Children's Trust (PANI) became the competent authority for national policy on children and adolescents and responsible for the application of universal policies relating to the child, going on to perform the functions of the old National Committee for the Implementation of the Convention which had been dissolved by Executive Decree No. 24200-PJ of May 1995.

26. The new Charter led the institution to reformulate the idea of children and adolescents as an absolute priority and as social subjects of law and to focus on their taking an active and leading role in the process of acquisition and application of their rights, together with various forms of social organization in the development of institutional management.

27. As part of its work of ensuring the promotion of the rights of the child, the National Children's Trust is coordinating closely with 137 of the country's non-governmental organizations. Of these, 117 provide shelter for psychologically and socially vulnerable minors while the other 20 offer various forms of services for children and adolescents.

28. A new departure in the defence, protection, restoration and publicization of the interests of the child was the creation of a Children's Ombudsman which in some countries has had a significant effect. This has also been the experience of Costa Rica as the second country to introduce this office. The functions of the Children's Ombudsman include protecting the rights and interests of children in their dealings with public and private authorities and monitoring the conditions under which these rights are exercised, as well as the effective application of the legal provisions concerning children. His actions are based, as in Costa Rica, on the Convention on the Rights of the Child.

29. As a result of a reorganization, this institution has been incorporated into the office of the People's Ombudsman, whose function is to defend and

promote the rights and interests of individuals, specifically in their relations with the public authorities. In the case of children and adolescents, its role continues to be to monitor and require the observance of the law.

30. In this connection, the Ombudsman has set himself the task of assisting in the process of adaptation of the legislation and application of the fundamental principles of the Convention on the Rights of the Child. Thus, a mechanism has been established for protecting the fundamental rights of the child, in particular at the level of the competent public institutions.

31. The Ombudsman has also made a considerable effort to publicize and promote the Convention as a preventive measure and a means of defending the rights of children and adolescents. The campaign has achieved quite wide national coverage and the more vulnerable sectors of the population have been included in the educational process.

32. The most important issues dealt with by the Ombudsman during the review period relate to education and protection. As regards the former, the complaints, inquiries and requests for intervention have centred on the following aspects: payment of the "voluntary contribution" in the schools; assaults by teachers on pupils; the refusal of information concerning progress with the handling of complaints lodged by pupils or their representatives; the problems raised by curricular reform and the failure to solve the problems of adolescents with disabilities who are completing their primary studies and are unable to enter pre-vocational or specialized education. Complaints and inquiries about violations of the rights of students in private educational centres have also been dealt on an informal basis.

33. As regards protection, the Ombudsman has received complaints concerning action taken by the National Children's Trust for violation of due process in administrative proceedings and concerning its failure to take action.

B. Adoption

34. One of the questions about which the Committee on the Rights of the Child expressed concern was that of the large number of domestic and intracountry adoptions of Costa Rican children.

35. This situation was examined by the competent authorities, which led to an amendment to the chapter of the Family Code relating to adoptions (Law No. 7538 of 22 August 1995) (see annex), and the internal machinery of the institutions concerned, mainly the National Children's Trust which handles adoption proceedings, was strengthened.

36. These measures are still some way off achieving clear-cut success in reducing the number of adoptions. Nevertheless, according to the relevant statistics, a significant reduction in both domestic and intracountry adoptions has been detected. This may be a reflection of subjective factors such as:

(a) Most prospective adoptive parents want babies, whereas most of the children under the supervision of the National Children's Trust are more than four years old;

(b) A tendency for the statistics to be inflated due to the fact that adoptions in hand, some of which do not ultimately materialize, are counted as actual adoptions. In addition, the figures may include some cases of children put up for adoption by the Adoptions Board even before they have been declared to be abandoned;

(c) The slowness of the courts in settling adoption cases has caused some prospective parents to withdraw from the proceedings.

37. Nevertheless, the recently observed decrease in the adoption index, both for direct adoptions and those handled by PANI, has made it necessary to carry out a more exhaustive study to define policies and concrete measures to be adopted in this particular area.

II. PROMOTION AND PUBLICIZING OF THE PRINCIPLES OF THE CONVENTION ON THE RIGHTS OF THE CHILD

38. It is a source of great satisfaction for the Costa Rican institutions entrusted with promoting the rights of the child to know that their efforts have begun to have an effect on the adult population.

39. Two surveys carried out by the UNICEF Office in San José (August 1996 and May 1997) to measure adult awareness of the rights of children and adolescents give an indication of the success achieved in publicizing the principles of the Convention on the Rights of the Child.

40. The surveys, which were intended to determine the level of awareness of the fundamental rights and freedoms of children among adults, produced the following results:

Table 1

Awareness of the rights of the child

RIGHT	PERCENTAGE
Education and health	96.0
Protection against abandonment	91.5
To have a family	91.1
Protection against sexual abuse	90.7
Affection and respect	89.7
Healthy environment	88.2
Play and recreation	86.3
Own thoughts and feelings	86.2
Expression of views	83.7
Religion or beliefs	82.3
Participation in family decisions	81.5
Rest	81.5
Protection against exploitation	80.1

41. These indicators show that, to a large extent, adults are aware of the rights of children and adolescents. Nevertheless, it should be pointed out that there is a wide gap between awareness of the rights of children and the application of those rights, since the adult population is still wedded to a number of practices which are preventing their full implementation.

42. In this respect, one of the most important tasks of Costa Rica's government institutions and non-governmental organizations is to influence the patterns of behaviour of the adult population in relation to children and adolescents. For this purpose, an intensive campaign has been launched to publicize the rights of children, using posters, transfers, pamphlets, radio spots, television commercials, newspaper advertisements, conferences, seminars, workshops, etc.

43. In this connection, the third (1997) report of the National Children's Trust noted the printing of 40,000 booklets on the rights of children and adolescents and the production of 6,000 posters, 2,000 pamphlets, 1,000 keyrings, 2,000 transfers, 2,000 eyeshades, 2,000 balloons, blankets, etc.

44. Moreover, for the purpose of promoting the principles of the Convention on the Rights of the Child, 1,000 copies of the document were printed and distributed among officials of the National Children's Trust, government agencies and non-governmental organizations.

45. Likewise, to make the rights of children more widely known, 18 live radio and television programmes were produced and close contacts were maintained with newspapers to enable PANI, as the competent authority, to give its opinion on questions relating to children, adolescents and the family.

46. In addition, direct contact was established with the various mass media. At these meetings the media representatives were informed of the problems of Costa Rican children and adolescents, of the modernization of the National Children's Trust in the light of the Convention on the Rights of the Child, and of the role of the news media in changing the conception of children and adolescents as social subjects of law. Various articles expressing views on this subject were also published.

47. At the same time, the National Children's Trust has been working in coordination with the Ministry of Public Education to incorporate the rights and duties of children and adolescents in the curricula of the first, second and third cycles of formal education. This means that the teachers must discuss the subject with the children and adolescents.

48. At the same time, conferences, workshops and seminars on the Convention on the Rights of the Child have been held for teachers, members of the legal profession and the police with a view to their incorporating this knowledge in their work and relations with children and adolescents.

49. Moreover, a film has been made of the Integral Care Programme for Children and Adolescents at Social Risk of the metropolitan area of San José, and broadcast on national television.

50. A video cassette has been produced under the title "Behaviour Management Techniques: Emphasis on Children and Adolescents with Disabilities", based on the similarly titled workshop given by the United States specialists Ted Judd Ph.D. (neuropsychologist) and Roberta Duboard Ph.D.

III. SOCIAL POLICIES

51. During the last few decades, Costa Rica has demonstrated a clear and forthright commitment to social development. In many areas, its social development indicators are comparable with those of developed countries. This is not merely a matter of chance but the fruit of the effort which society has made to lessen poverty and develop policies for dealing with the principal social problems.

52. A few examples will serve to illustrate this process of social development. Thus, in 1996, the crude birth rate was 23.3 per thousand, the general death rate was 4.1 per thousand, and the infant mortality rate was 11.8 per thousand; in 1995, 94.6 per cent of births took place in hospitals. These data, which are analysed below, indicate the progress which Costa Rican society has made in these various areas (State of the Nation, 1996).

53. Nevertheless, at the end of the 1970s fiscal problems combined with an unfavourable international situation provoked a crisis without precedent in the country's history. As a result, social policy became totally destabilized, which only served to aggravate the economic crisis. The income of the social institutions was severely reduced, which affected their ability to respond to the demand for social services. The social repercussions were soon felt and led to a general deterioration of the living conditions of broad segments of the population.

54. Being both a part of the problem and a manifestation of the crisis, social policy was thrown into disarray. The income of the social institutions was sharply reduced, which weakened their ability to respond to the demand for social services, and this in its turn compounded the effects of the crisis.

55. Although social expenditure continued to account for more than 40 per cent of total expenditure, in the worst years of the crisis it fell by 32.8 per cent (1982). It also declined as a proportion of GDP, falling from 22 per cent in 1980 to 18.4 per cent in 1989. Education and health were the sectors which experienced the sharpest cuts.

56. In recent years the situation has tended to stabilize, as evidenced by the fact that in 1995-1996 there was a considerable increase in social expenditure, which rose to 51.6 per cent of public expenditure and 20.3 per cent of GDP (National Plan of Action for Children and Youth).

57. The new Government which took office in 1994 regards social development as the key to the articulation and coordination of the efforts and resources of society, and children and adolescents as the main target of development policy. Both these approaches are clearly expressed in the Francisco J. Orlich National Development Plan, 1994-1998.

58. In order to carry out its mission, the Government has established a development and welfare strategy which seeks to restore and strengthen the progressivity of social policies, especially those relating to the well-being and quality of life of children and adolescents. Accordingly, it has been endeavouring to go beyond the narrow concept of targeting and emphasize policies of a universal nature supported, where necessary, by selective action.

59. Accordingly, it may be said that in the field of social development the State has moved towards the centre by combining the strengthening of universal programmes in health and education with the implementation of selective programmes aimed at clearly identified target populations (MIDEPLAN, Panorama Nacional 1995).

60. Thus, the social development model being promoted by the present administration, especially insofar as it applies to children and adolescents, involves four coordinated courses of action:

Universal social policies: These policies are aimed at supplying public goods and services to all social groups and regions without discrimination. They are universal in their coverage and mainly involve the supply of basic services in education and health.

Welfare and human development policies: Policies which provide public goods and services for all members of specific target groups. These are selective policies which supplement the universal policies and are aimed at bringing the target populations into the main development stream.

Special protection policies: These have a more restricted scope than the welfare policies. Where children and youth are concerned, they have the priority objective of providing and caring for children and adolescents who because of their material or psychosocial living conditions are at social risk or vulnerable to situations such as abandonment, physical, psychological or sexual abuse, drug addiction, sexual exploitation and prostitution, etc. Because of the nature of the problems which they address, they are necessarily associated with specialized programmes and projects involving various public and private institutions.

Guarantee policies: These are policies based on general principles of law (due process, equality before the law, etc.) which have been given constitutional status. They are intended to cater for children and adolescents in conflict with the law (National Plan of Action for Children and Youth).

BASIC SOCIAL POLICIES

A. Education

61. As far as education is concerned, in the Republic of Costa Rica, under article 78 of the Political Constitution, "public education is compulsory and, like pre-school and specialized education, is free and paid for by the nation".

62. The country has accordingly made great efforts to develop educational services and has succeeded in expanding the formal system so that geographically speaking it includes practically all the communities in the country, the aim being to cover the whole population of school age.

63. Such efforts have led to a growth and strengthening of the educational system in general, as regards both infrastructure and services. All these measures have resulted in significant advances in the educational field, although there are still some problems that remain to be dealt with.

64. As regards the population covered, the results are very striking. According to MIDEPLAN data, the gross school enrolment figures for the period 1990-1995 show, apart from some setbacks, a steady upward tendency, as can be seen from the following table.

Table 2

Gross school enrolment rate

	1990	1991	1992	1993	1994	1995
Pre-school	62.2	67.6	68.1	68.6	69.6	73.1
First cycle	115.6	116.8	120.6	122.3	121.6	120.3
Second cycle	88.8	90.9	92.0	93.1	95.4	98.9
Third cycle	58.3	59.7	62.9	64.8	67.2	68.8
Specialized education	38.2	39.5	42.1	41.6	41.6	43.2

65. Pre-school education is considered a very important preparatory stage before the start of basic education. Nevertheless, the coverage of this type of education has traditionally remained low, because it is not compulsory. However, in the last two years there has been an increase in the number of children attending, owing to the great encouragement given by the Ministry of Public Education. Thus total enrolment rose from 55,125 boys and girls in 1994 to 62,871 in 1996, an increase of 14 per cent. In addition, there has been an increase in the number of teachers at this level, with the creation of 431 new posts over that same period.

66. As far as secondary education is concerned, the pattern has been different. Historically, the gross enrolment rate for the third cycle and specialized education has been low, representing little more than 50 per cent of the adolescent population. In recent years, therefore, an enormous effort has been made to create more opportunities for the population of third-cycle age. During 1994-1996 a total of 57 new secondary schools were opened.

67. In addition to these achievements, we may note other important trends in the field of public education, such as the inclusion of a second language in syllabuses and the introduction of educational information technology. Mention may also be made of the supply of teaching materials for students and teachers, especially for single-teacher schools. There have nonetheless been difficulties in ensuring that all children and adolescents enrolled in the formal education system benefit from these facilities.

68. Apart from this, our educational system is affected by a rising drop-out rate, the highest figures being found in the third cycle and specialized education.

Table 3

Drop-outs in the course of the year

	1994	1995
First and second cycles	4.2	5.3
Third cycle and specialized education	14.6	16.1

69. These figures, together with those giving the breakdown by level, should point up the problems being encountered in our educational system.

Table 4

Education: breakdown by level (%)

	1990	1991	1992	1993	1994	1995	1996
Primary (first and second cycles)	38.1	36.7	35.1	33.3	33.1	33.3	35.6
Third cycle	59.3	61.9	60.6	61.9	62.1	61.2	62.6
Specialized education	73.5	71.6	68.6	71.2	71.3	73.1	73.7

70. Education specialists, like parents and pupils, agree on the reasons that in part account for this problem: outdated curricula, so that education is no longer relevant to work and everyday life, prevalence of a short-term approach and an educational style emphasizing memory work and not creativity, and shortening of the school year, together with economic and social factors connected with family income, family break-up problems, lack of interest in study on the part of pupils, programmes covering too many subjects, examinations testing ability to memorize, lessons missed through the absence of the teacher, lack of rigour and discipline in study, shortage of workshops, laboratories and libraries (Panorama Nacional 1995, MIDEPLAN 1996, p. 16).

71. Finally, it is disturbing that according to a study on children's education and work made by UNICEF and the National Children's Trust, of the population aged between 5 and 17 who are not in the educational system, some 67 per cent are not involved in productive work either.

B. Health

72. Traditionally, one of the State's priority tasks in Costa Rica is the strengthening and development of the country's national health system. This has been reflected in the emphasis placed on making health services generally available, through measures designed to establish a single integrated health

system. Efforts have accordingly been concentrated on the provision of preventive services by the Ministry of Health and curative and hospital services by the Costa Rican Social Security Scheme (CCSS).

73. The 1980s represented an important stage in the provision of universal medical care for the population, with CCSS launching an insurance programme under the sickness and maternity system (REM) covering 75.7 per cent of the population, which rose to 85.6 per cent in 1990 and 86.2 per cent in 1994.

74. Programmes were introduced in the areas of food and nutrition for infants and nursing mothers, such as education and nutrition centres and school dinners, which made a decisive contribution to positive progress.

75. In general, our country has shown a marked concern for the health of its people, particularly infants. This can be seen from the trend in health indicators such as the following:

Table 5

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Gross birth rate	30.7	28.9	28.5	28.6	27.4	26.5	25.6	24.6	24.6	23.8	23.3
Gross death rate (per 1,000)	3.9	3.8	3.8	3.9	3.8	3.8	3.9	3.9	4.1	4.2	4.1
Infantile mortality rate (per 1,000 live births)	17.8	17.4	14.7	13.9	15.3	13.6	13.7	13.7	13.0	13.3	11.8

76. From the figures in the above table it can be seen that the infant mortality rate is tending to decline, despite the problems connected with the 1980s crisis and the reduction in the health budget during the first part of the 1990s, when, according to MIDEPLAN figures, real expenditure on the health sector in millions of 1966 colones, was as follows: 1991 - 719; 1992 - 621; 1993 - 600; 1994 - 621; 1995 - 640.

77. Similarly, life expectancy at birth has steadily improved, from 73.5 years in 1986 to 76.3 years in 1990, a level which was maintained in 1996.

78. The fact that the country can maintain such health indices and that they are tending to improve is partly due to the campaign to make both preventive and curative health services universally available. This is the case with care in childbirth, where a very high proportion of mothers give birth in hospitals, as can be seen from table 6.

79. In this area, the question of children born to adolescent mothers is a matter of great concern, as can be seen from table 7.

Table 6

Total births, per year

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Total births	83 194	80 326	81 376	83 460	81 939	81 110	80 164	79 714	80 391	80 306	79 203
Hospital births	75 940	73 631	75 681	78 004	77 546	75 049	74 917	75 319	75 748	75 996	-
Per cent	91.2	91.7	93.0	93.5	94.6	92.5	93.5	94.4	94.2	94.6	

Table 7

Births to adolescent mothers, by year and age group

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Total	13 872	13 385	13 351	13 503	12 938	13 139	13 200	13 389	14 339	14 760	14 954
Under 15	319	357	302	365	360	431	459	480	501	564	538
Aged 15-19	13 553	13 028	13 049	13 138	12 578	12 708	12 741	12 909	13 838	14 196	14 416

80. This situation is worrying because it jeopardizes development and quality of life for both mother and child. It is in fact one of the factors found to be of major importance in mortality among adolescent girls and in infant mortality.

81. Another important aspect to be noted is the re-emergence of diseases thought to have been controlled and eradicated, such as dengue, malaria and measles.

82. In the case of measles, during the early 1990s the Costa Rican population suffered from the uncontrolled prevalence of this disease. As a result of mass vaccination campaigns conducted among the population towards the end of 1994, the disease began to wane and in 1995 the incidence was much lower. It is hoped that in the course of 1997 it will be possible to achieve the target of the World Health Organization (WHO) and eradicate the disease.

83. Cases of dengue have fallen by 63 per cent since 1994. However, in the areas most affected in earlier years by ordinary dengue, special vigilance is being maintained, because the population there is at greater risk of infection from haemorrhagic dengue. As far as malaria is concerned, in 1995 the expansion of the disease was checked by comparison with the first years of the decade, but it is still widely prevalent in the Huetar Atlántica region, which accounts for 50 per cent of the total number of cases in the country (Panorama Nacional 1995, MIDEPLAN 1996, p. 42).

84. One of the subjects of greatest concern with regard to the health of children and adolescents is the consumption of alcohol and other controlled substances. In the case of alcohol, the differences between the sexes are not particularly marked. The alcoholic drink that is most consumed by young people is beer, which is due in large part to massive advertising, especially by radio and television and at entertainments aimed at this sector of the population, with messages (slogans) (refreshing soft drink, does not make you drunk, etc.) targeted mainly at adolescents, who spend much of their time watching television.

85. The basic reasons why young people start taking drugs are problems with their families and parents (26 per cent) and unresolved problems from which they wish to escape.

C. Culture and recreation

86. As far as culture is concerned, various initiatives are being taken in Costa Rica to provide children and adolescents with places where they can express themselves and enjoy culture, sports, recreation and leisure activities. These initiatives receive institutional support from IMAS, the National Youth Movement, the Ministry of Culture, Youth and Sports and non-governmental organizations such as the Children's Museum Foundation.

87. The basic aim of the programmes and activities is to provide young Costa Ricans with places for participation and training, where they can take charge of their own futures, so that they are involved in an organized and committed way in the process of personal and communal advancement.

88. Thus there are programmes for voluntary work and training within the methodology of non-formal education, such as training courses and sessions for young leaders, talks at schools and work camps in national parks, with participation by young people from communities given priority under the National Anti-Poverty Plan.

89. As the young people's needs are great and the resources limited, many efforts have been made to attract resources, both nationally and internationally, in order to ensure the fulfilment of an important function in the care of young people, especially those from the country's poorest communities. Combined efforts have also been made with other State agencies and non-governmental organizations, such as the National Children's Trust, the Joint Social Assistance Institute, the National Autonomous University and the Costa Rican Social Security Scheme, among others.

90. It is important to note here the organization of 90 school camps to promote healthy recreation, which were attended by 21,000 children from 69 marginal communities between 1994 and 1996, in addition to the construction of 36 children's parks (and 10 more in 1996) and the training of 2,000 young people and children in recreational activities during the same years, with an investment of 21 million colones, as part of the programme for the 16 most vulnerable communities being coordinated by the First Lady's Office (government report, May 1997).

91. One of the main concerns in this field has to do with the way children and young people view and use their free time, given that in many communities physical and social space for sports, artistic and cultural creation and community work is limited. For that reason, the institutions in question are providing opportunities for recreation and relaxation and organizing activities for the creative and healthy use of free time.

92. Thus the National Youth Movement organizes every year a national youth week, national young people's cultural and sports meetings, cultural and sports festivals and national recreational games.

93. The Joint Social Assistance Institute (IMAS), for its part, undertakes mediation projects designed to provide opportunities for all-round development, with the emphasis on training and recreation, and to help prepare for different vocations and reinsertion in the educational process.

94. The "Young People and Children", "Between Generations" and "Muscle-Mind" mediation projects carried out in communities under the leadership of adolescents, young people and adults have led to pupils returning to school and in addition being trained in attitudes, values and habits such as responsibility, discipline, punctuality, order and cleanliness, organization of time and advance planning of activities.

95. Through these projects there has been an improvement in academic performance and regular school attendance with a decline in school drop-out and failure rates. However, there are still many difficulties in the way of children and adolescents exercising their right to recreation.

96. Thus the People's Ombudsman has analysed various complaints about violations of this right, most of them concerning violent and intolerant behaviour by neighbours towards children playing in public areas of the neighbourhood and the lack of action by local authorities.

97. In general, it has been observed that adults have failed to accept this right, although it has to be understood that there are definite limits on the right to recreation in the form of other people's legitimate rights and that the State and civil society must preserve, respect and encourage a tolerant attitude among adults with regard to the annoyance that they may naturally be caused through the exercise of this right by children and young people.

98. The public authorities responsible for town planning do not make adequate provision for areas for the enjoyment of childhood and adolescence. Nor have local government authorities exercised their powers with regard to the maintenance and supervision of community recreation areas and spaces. Hence one of the challenges for the future is to provide genuine opportunities for children and adolescents to enjoy culture, sport and recreation.

D. Assistance and human development policies

99. Poverty has been identified as one of the major problems in Costa Rican society, and the State has therefore shown increasing concern in this area. Institutions have been set up and many programmes implemented with a view to dealing with the problem, attacking its most visible manifestations, such as deficiencies in the areas of nutrition, health, education and housing.

100. It was for this reason that the Joint Social Assistance Institute was set up in the mid-1970s, with the aim of eradicating poverty in the country. Three years later, the Development and Family Allowances Act was passed, setting up the Social Development and Family Allowances Fund (FODESAF) for the purpose of financing programmes aimed at raising families' standard of living.

101. During the 1970s there was a considerable reduction in the amount of poverty, but 10 years later, as a result of the acute structural crisis in the development model promoted up to that point, Costa Rican society found itself faced with a phenomenon of impoverishment which endangered the social progress that had been achieved until then.

102. Nevertheless, the country's social and economic indicators for the late 1980s and early 1990s point towards a recovery in the development process that had petered out a decade earlier. Thus, for example, in 1987 the poverty index was 18.5 per cent, in 1990 it rose to 20.5 per cent, and in 1991 to 24.4 per cent, and then went into a downward trend, ending up at 14.7 per cent in 1995 (Panorama Nacional 1995, MIDEPLAN 1996).

103. Households in a situation of extreme poverty, defined as those families that do not have enough income to cover their food needs, showed a slightly higher percentage during the years 1990-1993 than households in a state of basic poverty (those with enough income for food but not for their remaining needs) a situation which recurred during the years 1994 and 1995.

104. The level of open unemployment in poor households reflects that prevailing at the national level, which, combined with a low average number of employed persons per household, explains why poor people have a lower rate of participation in the economically active population than those who are not poor. Unemployment of the head of the household, combined with the uncertain working conditions poor people have to face, substantially increases the household's social vulnerability.

105. Among poor households the head of the family is more likely to be a woman, a situation which is more marked in marginal urban areas.

106. Together with women, children suffer more from the scourge of poverty, a phenomenon which is transferred from one generation to another through the vicious circle of malnutrition, learning and health problems, premature dropping out of the educational system and early and uncertain entry into the labour market. In 1994, 19.2 per cent of children under 15 were below the poverty line.

107. According to the figures in the State of the Nation Report, 1996, in that year the distribution of poverty levels in the under-age population was as follows.

Table 8

Distribution of the under-age population by poverty level, 1996

	Poverty level			
Children and adolescents	Extreme poverty %	Not meeting basic needs %	Not poor %	Absolute total
Babies (0-2 years)	9.12	20.74	70.14	177 603
Preschool (3-6 years)	9.84	21.32	68.84	241 368
School age (7-12 years)	10.98	21.79	67.23	386 290
Adolescents (13-18 years)	7.38	18.95	73.67	326 349

108. This situation with regard to poverty has meant that a high percentage of children and adolescents have to abandon their education in order to enter the labour market. Thus, out of the total population aged between 12 and 17, 405,214, or about a quarter, are working. More than two thirds are male and the rest are female, together accounting for 8 per cent of the total economically active population.

109. The entry of minors into the labour market takes place essentially at two points: at the age of 10, i.e. when they complete the first cycle of basic education, and at the age of 13, when they leave primary school. However, most children enter the labour market between the ages of 13 and 15.

110. Out of the total number of minors working in 1995, only 51.4 per cent were receiving regular education, the remaining 48.6 per cent having completed no more than primary school if that. Minors who do paid work get on average 64 per cent of the minimum wage. In general, the average income of women is slightly below that of men.

111. In 1994, only 7 per cent of economically active young people were insured under the sickness and maternity system, while 24.7 per cent were covered by disability, old-age and life insurance.

112. In terms of policy implications, it is obvious that a strategy seeking to eradicate poverty and not just mitigate its effects ought to give priority treatment to the mother-and-child unit through all-round support guaranteeing their protection, promoting their participation and access on equal terms in areas such as health, nutrition and education, all these being basic elements in a society which appreciates respect for human rights and the rights of the child.

113. In this connection, it is important to draw attention to the information provided by the President of the Republic in his work report of 1 May 1997, in which he said that under the present administration the National Anti-Poverty Plan had been established as one of the most important factors in the social area, one of its components being the Programme for Children and Young People. This programme is aimed at improving living conditions for children and adolescents in poor communities, giving them equal opportunities for access to the main media for social change: health and education. That is why the Social Development and Family Allowance Fund (FODESAF) allocated a total of 12,358 million colones to this area between 1994 and 1996.

114. The work to be done by the Programme for Children and Young People includes the establishment and strengthening of child-care centres, support for State crèches, running of community homes and payment of a monthly food subsidy to each of these homes. It also covers the award of scholarships to 5,106 students, strengthening of the school dinners system, assistance in the supply of basic school requisites to students with limited resources, training by the INA in workshops, and execution of the Healthy Communities and Schools Programme, among other things.

115. In addition to the 5,106 scholarships for students in formal education, in 1996 IMAS also awarded 800 scholarships to children at social risk who are placed in alternative non-formal educational facilities.

116. INA also undertook a broad training programme between 1994 and 1996, which covered 552 young people who were without fixed workplaces or were detained in institutions, by means of courses given through the training-production system in the fields of agriculture, industry and trade and services.

117. Another important feature of the Programme for Children and Young People that deserves mention is the execution, beginning in 1994, of a project with two components, health and nutrition care and encouragement of the production of organic food. The latter has the participation of the National

Apprenticeship Institute (INA), which is training smallholders in 474 IDA peasant settlements and their families, who are living in extreme poverty. These settlements are situated in 22 of the country's cantons, and they cover about 25,000 families, among which it is estimated that there are approximately 2,448 children suffering from some degree of malnutrition.

E. Special protection policies

118. In its application to children and young persons, the term "special protection policies" refers to policies designed to introduce preferential preventive and care measures in favour of children and young persons of both sexes who, on account of the material and psychosocial conditions of their existence, are at social risk or are vulnerable to situations such as abandonment, physical, psychological or sexual abuse, drug addiction, sexual exploitation and prostitution.

119. Social protection policies demand specific projects and specialized staff together with major efforts to restore the machinery of selectivity and the ability of public and private institutions to adapt themselves to the specific needs of the population.

120. Social protection policies relating to children are concerned with the living conditions of children and adolescents of both sexes at social risk, who have few choices or opportunities available to develop fully, mainly on account of the unfavourable economic, social and family situations in which they live, because they are totally or partially debarred from access to the services offered by the State, and are, furthermore, living in highly unstable environments.

121. The statistics of the Reception and Referrals Centre of the Ministry of Justice give some idea of the problems facing this population group. The number of children and young persons cared for by that centre during 1993 was the equivalent of 0.032 per cent of the total population of Costa Rica under age 19. Boys made up 60 per cent of the total.

122. The majority of the persons taken into care on account of social risk were children between ages 8 and 15. However, from age 12 upwards adolescents form a higher percentage of the individuals taken in. Over 22 per cent of those taken into care are illiterate; the drop-out rate in basic education is 32.2 per cent.

123. Of the minors at social risk 45.5 per cent have no activity. They wander around the streets of the urban centres, where they are detained and referred to the centre. The formal and informal jobs they do take up inevitably place them at risk, either because the jobs are considered dangerous (building, agriculture, fishing, etc.) or because they require little skill and are poorly paid (domestic service, peddling, etc.).

124. Drug addiction and alcoholism are major problems for a large proportion of this group. Although only 2.6 per cent confessed, evidence of consumption and use of drugs and alcohol is present among 25.1 per cent of minors (58.5 per cent girls and 41.5 per cent boys). The drug consumed most is

crack; a third of the members of the group in care consume it. Alcoholic beverages are consumed by 14.2 per cent (40 per cent boys, 60 per cent girls); 33.3 per cent both drink and take drugs.

125. One factor which places a child or adolescent at social risk is the break-up of families. In 38.7 per cent of all the cases studied the cause of the break-up was desertion of the home by the father; desertion by the mother occurred in only 1.7 per cent of cases. However, desertion by the father was not total; 16.1 per cent of the minors interviewed stated that the father voluntarily brought money to the home. Only 1 per cent received maintenance allowances.

126. In many cases physical, sexual and psychological aggression, the search for reference groups and the need to escape combine with the fact of playing an important part in ensuring the material survival of the family group to make for expulsion or leaving the home. The influences of daily life inevitably affect the emotional lives of young people; the links with the persons closest in affection to the child gradually break down; and ultimately this factor proves the catalyst causing the child to leave home.

127. Boys and girls who live in an atmosphere of violence in their homes, as well as those who suffer violence in the streets because they are poor and are living through a process of harsh exclusion, have been stigmatized by the rest of society, which legitimizes their exclusion by making stereotypes of them.

128. Against this background the institutional reply is to place the children in institutional care. The result is that the majority of cases originate from judicial, rather than socio-economic and psychosocial, responses to individual situations, which become even worse inasmuch as feelings of not belonging, family breakdown, marginalization and social exclusion are reinforced.

1. Integral Care Programme for Children and Adolescents at Social Risk

129. With a view to preventing, dealing with and resolving the situations of children and adolescents in the metropolitan area of San José exposed to high levels of psychosocial risk, in January this year an Integral Care Programme for children and Adolescents at Social Risk was introduced. The programme is directed by the Pro Infancia y Juventud Committee and the National Children's Trust (PANI).

130. The work of the programme is focused on 2,000 children and adolescents in the metropolitan area who fall into one or more of the following categories:

(a) Victims of physical, psychological or sexual ill-treatment within the family group;

(b) Individuals suffering from lack of care and of provision for their basic needs on account of failure to exercise parental powers;

(c) Victims of exploitation of their labour within or outside the family group;

(d) Individuals living through the consequences of unresolved family disputes;

(e) Individuals living in a survival strategy;

(f) Individuals who have dropped out of or never entered the formal education system;

(g) Mothers or fathers not receiving any family or community support;

(h) Persons living in a state of concubinage with elements of abuse;

(i) Victims of sexual exploitation;

(j) Victims of illicit drug or alcohol abuse;

(k) Strays;

(l) Individuals without identity papers;

(m) Individuals found on the streets with an institutional past (PANI, the psychiatric hospital, centres for children in conflict with the law).

131. During the short time which has elapsed since the Integral Care Programme for children and Adolescents at Social Risk was promulgated, the institutions involved in it have been extremely active. Among other things:

(a) They have, by means of press conferences attended by 14 communication media, stimulated public discussion of subjects such as the sexual, psychological and physical abuse of children and adolescents, the consumption of drugs and alcohol by persons under age 18 and the sexual exploitation of the young. As a result, various opinions and reactions concerning the different situations experienced by children and adolescents at social risk have appeared in a number of newspaper columns;

(b) 10,000 presentation cards describing the Integral Care Programme for children and Adolescents at Social Risk have been printed and distributed to key persons in social life with a view to securing a commitment on the part of various sectors of society to the provision of care for children and adolescents;

(c) Coordination was organized with the Institute on Alcoholism and Drug Dependency (IAFA) for the conduct of an advertising campaign seeking to prevent alcohol consumption by persons under age 18 and the implementation of the legislation regulating the sale and consumption of alcoholic beverages;

(d) An agreement was signed with the Tourism Institute for the conduct of an information campaign seeking to prevent the sexual exploitation of the young and, more specifically, sexual tourism involving boys, girls and adolescents;

(e) Officials from the National Children's Trust participated in a number of live radio and television programmes in which the above subjects were discussed.

2. Plan for the prevention and gradual elimination of child and juvenile labour

132. For a number of years now Costa Rica has been implementing various measures designed to regulate and reduce child and juvenile labour. Special emphasis has been laid on that issue since the ratification of the Convention on the Rights of the Child. As a result of these measures, and in order to combat the early entry of children and adolescents into the labour market, approval was given, at the request of the Government and in line with Decree No. 25830 of 12 March 1997, to a Plan for the Prevention and Gradual Elimination of Child and Juvenile Labour. The Plan is coordinated by the National Management Committee for the Campaign against Child Labour, a body attached to the Ministry of Labour and Social Security. Its basic objective is to exclude children and adolescents from harmful and excessively arduous jobs and from working conditions deleterious to their health, safety, education, morals, dignity and self-esteem and to their full social, physical and psychological development and to protect and rehabilitate them.

133. To that end the Committee has concentrated its activity on uniting the efforts of Government and of civil society in measures designed to combat all forms of exploitative child and juvenile labour, especially labour of kinds which place children and adolescents at risk.

134. For the purpose of implementing of this Plan, the National Committee for the Campaign against Child Labour has focused its attention on an integrated and coordinated set of strategic measures which fall under four heads:

- Strategic action areas: education, cultural models, law, health, socio-economic and labour issues;
- Types of intervention: prevention, rehabilitation, elimination and protection;
- Types of action: research, training, care, communication and information, monitoring and policy evaluation and development;
- Time-scales for intervention: short-, medium- and long-term.

3. The Permanent National Committee against the Sexual Exploitation of Children and Adolescents

135. In 1996 a group of public and private national and international institutions decided to join forces to launch a process designed to stimulate action to prevent and put an end to the sexual exploitation of children and adolescents for commercial purposes in Costa Rica.

136. With that aim in mind it was proposed to establish an open forum of reflection for the analysis and discussion of the problem and for the preparation of proposals for a national action plan within which the situation would be dealt with in an integrated and comprehensive manner.

n the light of the foregoing, by decision of its Executive Board, at inary meeting No. 97-0055 the National Children's Trust approved the shment of the Committee, which is made up of public bodies and national ernational NGOs.

ne of the priority challenges is that of securing the participation of n and adolescents in their capacity as key social actors in both the the Committee and the implementation of the Plan of Action, the aim o involve them in finding their own solutions to their problems and proposals on the subject.

or the purposes of its work the Committee has defined the sexual ation of children and adolescents as:

A fundamental violation of the rights of children and adolescents;

A form of abuse implying the sexual victimization of children and adolescents in the context of a commercial transaction in which consideration may be given in cash or in kind;

A contemporary form of slavery; and

An enforced and harmful income-generating activity.

ıe sexual exploitation of children and adolescents as so defined s two principal forms of expression - prostitution and aphy - and two particular channels for its realization - tourism fficking.

ıe Permanent National Committee against the Sexual Exploitation of ı and Adolescents has set out its tasks in a wide-ranging plan of ies, which include the following:

The organization of meetings and working sessions for the discussion and analysis of the problem (religious leaders, local governors, the National Chamber of Tourism and representatives of airlines and sea and overland transport enterprises);

The consolidation of slots for inputs by international cooperation machinery (UNICEF, ILO, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), the ILO International Programme on the Elimination of Child Labour (IPEC), the National Children's Trust) in the implementation of proposals;

The establishment of standing coordination machinery to facilitate exchanges of resources and concertation of efforts (Social Council, NGOs, hotel and tourism enterprises, Ministry of Tourism);

The preparation and conduct of workshops at decision-making level in institutions responsible for framing or implementing policies, plans and programmes with a direct or indirect bearing on the

problem (Executive Board of the Costa Rica Social Insurance Fund, PANI, IMAS, the Propaganda Control Office, the Costa Rican Tourism Institute (ICT), the Migration and Aliens Office, the Civil Registry, Customs); and

- The preparation and distribution of leaflets and bulletins specifying the authorities (police, NGOs, public institutions, Ombudsman) to which cases of sexual exploitation should be reported and explaining in simple terms the procedures to be followed.

142. One of the measures taken under the Committee's plan of action was the signature of a cooperation agreement between PANI, ICT and UNICEF for the purposes of a campaign to disseminate information on the legal remedies and penalties relating to the use of children and adolescents for purposes of sexual commerce. At the same time efforts are being made to disseminate awareness of the psychological and social implications which these sexual practices have for children and adolescents.

143. Close coordination is also being maintained with, and training facilities offered to, the national, municipal, transit and migration police forces, the Judicial Investigation Department (OIJ), the Tax Office and ICT in this field.

4. Programme for the Guaranteeing of the Rights of Handicapped Children and Adolescents

144. A Programme for the Guaranteeing of the Rights of Handicapped Children and Adolescents has been developed at national level. Its aims are as follows:

(a) To improve the quality of life and the opportunities for full development of handicapped children and adolescents in institutional and private care, in view of their doubly disadvantaged situation of being both handicapped and abandoned;

(b) To coordinate the technical work of the National Council for Rehabilitation and Special Education, the Ministry of Education and other institutions and sectors with responsibilities for dealing with the problems of handicapped and abandoned children; and

(c) To secure a maximum of collective, public and private resources to facilitate the full development of the individuals concerned.

145. The entire programme is directed towards the promotion of the higher interests of the child and equality of opportunity for children and adolescents.

5. Migrant population

146. In view of the repercussions throughout the country of the situation of the migrant population and, in particular, the problem of access for children and adolescents who are migrants or born of parents without identity papers, it is of importance to outline briefly the health and education measures taken by the public authorities.

147. As regards health, social security coverage has been extended to all children without distinction. In addition, migrant children can be admitted to educational at establishments, and the procedures laid down for their admission into the educational system have been simplified.

IV. GENERAL MEASURES OF IMPLEMENTATION OF THE CONVENTION (LEGAL FRAMEWORK OF THE CONVENTION)

148. Following the ratification of the Convention on the Rights of the Child and with a view to complying with the principles and precepts set forth therein, the Republic of Costa Rica is beginning a process of adaptation of national legislation concerning children and adolescents in accordance with the letter and the spirit of the new instruments.

149. With this end in view, one of the objectives which public and private institutions, non-governmental organizations and interested individuals set themselves was the implementation of a general reform of legislation covering all matters relating to children and adolescents. That ambitious project did not come to fruition, as many of the parties involved in preparing it were unable to reach agreement. For this reason Costa Rica is beginning a process of adaptation, instrument by instrument, of all legislation relating to children.

150. In 1995, on the initiative of a group of individuals and of public and private institutions, an Executive Decree was adopted establishing an inter-institutional committee with the principal task of preparing a draft code which would bring existing legislation into conformity with the new principles and commitments accepted by Costa Rica through ratification of the Convention on the Rights of the Child.

151. At the outset the Committee was made up of representatives of the Second Vice-Presidency of the Republic, the judiciary, the Ministry of Justice, the National Children's Trust, UNICEF and two non-governmental organizations (PANIAMOR and COSECODENI); it was coordinated by the Ombudsman and welcomed participation by individual governmental and non-governmental entities having a concern with children and adolescents. In this way it secured inputs from, inter alia, the Ministries of Labour, Health, Education, and Culture, Youth and Sports; the Family Allowances Fund; the Centre for Women and the Family; the Office of the Procurator-General of the Republic; and non-governmental organizations such as Defence for Children International (DNI) and the Costa Rican Commission for Human Rights. The Committee also enjoys the support of representatives of the parliamentary parties, who advised on and followed the preparation of the document from the very beginning. Above all, the undertaking was a response to a felt social need and to the duty of compliance with an international instrument.

152. The expanded Committee approached its task by compiling the criteria and the realities relating to the various considerations on which the approach to children and adolescents was based. Thus, before beginning a purely legal examination of existing legislation and earlier draft legislation and proceeding to a comparative law analysis, a widely ranging popular consultation was organized by means of a process of concerted social

mobilization in the different sectors. To that end a number of workshops were convened, covering, in particular, health, education, labour, culture, the community and the family. The intention was to bring by this approach experience in the area concerned and realities of everyday life into a single forum.

153. At the end of this joint undertaking, and after the proposal had been submitted for analysis to national and international consultants and judges in the national judiciary familiar with the subject had given their opinions, a draft Children's and Young People's Code - the fruit of a concertation of entities with the will to secure recognition of the rights of children and adolescents - was submitted to the Legislative Assembly.

154. The proposal - a milestone in Costa Rican legislation - after receiving the unanimous approval of the advisory Legislative Commission, was adopted by the Second Plenary Commission on 3 December 1997. All that is now required to bring it into force is the signature of the President of the Republic, which it is hoped to obtain during the month of January.

155. Another element in the process of revision of the legal framework in the light of the Convention on the Rights of the Child was the entry into force on 1 May 1996 of the new Juvenile Criminal Justice Act (see annex).

156. The earlier Basic Tutelary Jurisdiction of Minors (Organization) Act treated young persons (referred to as "minors") as passive as regards treatment under the law - as objects of law rather than subjects; consequently, no procedural guarantees of any kind were envisaged for persons under age. Judges in trials were omnipotent, "fatherly" figures; their decisions were discretionary, ultimately violating all the rights of the minor under the euphemistic guise of protecting him.

157. In addition, the Basic Tutelary Jurisdiction of Minors (Organization) Act classified the problems of children at risk in such a manner that totally dissimilar situations - such as being abandoned or being in danger, the lack of sufficient care to satisfy the child's basic needs, ring leadership of or participation in a crime or offence, and even physical, sensory or mental deficiencies - were treated as equivalent. In addition it provided for forms of detention which actually constituted deprival of liberty for reasons related to no more than the absence or insufficiency of material resources.

158. The new Juvenile Criminal Justice Act superseded the Basic Tutelary Jurisdiction of Minors (Organization) Act, which was full of inconsistencies and was making for the development of criminal law based on dangerous character and authorship.

159. The new Act recognizes persons under age as members of society with many rights and parallels more closely the criminal legislation applicable to adults as regards individual rights and guarantees.

160. Its principal objective is to achieve optimum adaptation to the standards set forth in the Convention on the Rights of the Child, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty

and the United Nations Guidelines for the Prevention of Juvenile Delinquency, while at the same time taking into account the country's needs and social realities.

161. Thus the new Juvenile Criminal Justice Act broadens the range of measures applicable as judicial responses to the commission of crimes and offences; in exceptional cases it provides for imprisonment or deprivation of liberty as a precautionary measure (provisional detention). In addition, it applies to all children and adolescents and not only to those whose basic needs are partially or totally unsatisfied or who are surviving in particularly difficult circumstances. The courts are now established in their proper function, namely the settlement of disputes of a legal character.

162. The Act enshrines a series of rights and guarantees which are inherent in every human being, and which an adolescent, being a subject of law at a particular stage of development, should enjoy more fully. Consequently the Act lays down a number of principles in the absence of which the lawful functioning of the judicial process cannot be guaranteed. These principles are as follows:

(a) The principle of legality: an adolescent may only be tried for acts specifically designated as crimes or offences, and with the application of measures of social education determined at the time; and

(b) The principle of humanity: the State has a special obligation to protect adolescents who commit breaches of the law, in the sense of minimizing the process of social exclusion and facilitating the development of self-confidence and the social integration of each individual;

(c) The principle of jurisdictionality: application of the basic principles of jurisdiction; a natural (or regular) judge; independence and impartiality;

(d) The adversary principle: a clear definition of the roles of the participants in a genuinely adversarial trial (accuser, accused, judge); without this procedural structure the adversarial nature of the proceedings cannot be guaranteed, even where the intervention of defence counsel is ensured; and

(e) The principle of innocence: as long as the responsibility of the adolescent for the delictuous act has not been established, he or she is presumed to be innocent, and it is deemed that provisional detention, which is a real deprivation of liberty, must be exceptional and a measure of last resort.

163. The implementation of the new Act entails the creation and adaptation of institutions to respond to the new challenges which have arisen. A special section concerned with children and adolescents has been established in the Judicial Investigation Department, and a specialized team of prosecutors has been formed to deal with such cases; there are at present 19 of these prosecutors in different parts of the country. In addition, a team of public

defenders for minors has been established; there are already 12 such defenders, posted in different parts of the country. Finally, the higher juvenile criminal courts are beihg institutionalized.

164. The entry into force of the new Act has led to visible results. A considerable reduction in the number of adolescents deprived of liberty has been observed. Before the new Act came into force the nationwide average number of juvenile detainees was 140; it is now down to approximately 30.

165. Although significant successes have been achieved under the new Act, many difficult problems still remain to be dealt with in this field, namely:

(a) The Higher Juvenile Criminal Court is overloaded with cases outside its field of competence;

(b) There are very few judges who specialize in juvenile problems;

(c) In many places cases concerning minors are dealt with by family court judges;

(d) Disproportionately heavy penalties or sanctions are still imposed;

(e) There is a need to expand and strengthen the relevant training programme for police officers.

166. In addition, a bill concerning the enforcement of penal sanctions on juveniles, drawn up by ILANUD and the European Commission, is being studied by the Legislative Assembly; it is an essential compliment to the Juvenile Criminal Justice Act.

167. However, the latter Act stands out as a real success within the Costa Rican legal system, since it clarifies the theme of crimes and offences committed by persons under age, recognizes the subject as a criminal issue and deals with it accordingly.

168. In addition, as part of the process of adaptation of the legal system to comply with the Convention on the Rights of the Child and International Labour Organization Convention No. 138, the Executive vetoed the legislation establishing a minimum age of 12 years for authorization of the employment of children on the grounds that that legislation was not in line with commitments entered into at international level. The Children's and Adolescents' Code contains an entire chapter on the special regime of protection for juvenile workers and sets the minimum age for admission to employment at 15 years.

169. The Code assigns responsibility for the determination of policies in this field to the Ministry of Labour and Social Security, which is also responsible for ensuring the protection of children and adolescents in employment and respect of their rights under labour law.

170. The Children's and Adolescents' Code provides that a child or an adolescent under age 15 found performing work of any kind is deemed to have become liable to a protection measure which will enable him to acquire a skill so as to exercise his right to work at a later date. This measure, and other

protective measures, will be implemented by the National Children's Trust through the intermediary of the Boards for the Protection of Children and Adolescents, the establishment of which is proposed in the Code.

171. One interesting aspect of the Code is the fact that it involves municipal authorities in the supervision of the working conditions of adolescents of both sexes in their respective localities and thus promotes employment programmes for the populations concerned. The National Children's Trust and non-governmental organizations are also involved in the enforcement of these provisions.

172. Another Act promulgated in accordance with the Convention on the Rights of the Child is the Act against Sexual Harassment in Employment and the Education Sector (see annex).

173. Among other things this Act provides that all educational establishments shall be kept free of sexual harassment by means of a policy which prevents, discourages, averts and punishes such conduct. Specific provisions directed to that end must be included in the internal rules of educational establishments, collective agreements, direct arrangements, etc.

174. Occupational unions, for their part, must establish policies for the prevention and punishment of harassment by and among their members as well as procedures for the sanctioning of such conduct.

175. In a teacher-pupil relationship, a student of either sex who offers proof of harassment will be entitled to require the teacher's superior to apply the sanctions relating to employment laid down in the Act. Equally, if it is demonstrated that that harassment has resulted in prejudice to a pupil's educational situation, he or she is entitled to be reinstated in the position occupied before the consequences of the harassment became felt.

176. As regards children and adolescents, the Act has served to prevent violations of their rights, particularly with regard to the right to physical and psychological integrity and the right to dignity.

177. Again in line with the Convention on the Rights of the Child, Act No. 17654, amending the Maintenance Payments Act, was adopted on 23 January 1997. The purpose of the new Act is to simplify the administrative machinery for the receipt of maintenance payments and the methods of calculating increases in them in line with rises in the cost of living in the country.

178. Act No. 7600 (the Equality of Opportunity for Handicapped Persons Act) was adopted in 1996. This instrument ushered in a modern national policy on disabilities. It has proved effective in benefiting handicapped persons and their parents inasmuch as it has enabled them to demand enforcement of their fundamental rights and freedoms and has created the necessary conditions for the fulfilment of their obligations as citizens (see annex).

179. The adoption of this Act entailed the repeal of a number of articles in other legislative instruments which gave legal sanction to manifestly inhuman and discriminatory practices and attitudes.

180. The aims of the Act include the following:

(a) To assist persons with disability problems to achieve a maximum of development and participation in society and also the full exercise of their rights and obligations as citizens;

(b) To guarantee equality of opportunity with the rest of the population of Costa Rica in areas such as health, education, work, family life, recreation, sport, culture, etc.;

(c) To end all types of discrimination against such persons; and

(d) To establish the legal and material basis necessary for the achievement of equality of opportunity for handicapped persons and non-discrimination against them.

181. In the educational field - one of the fields in which handicapped children and juveniles have suffered the worst adverse effects - the Act provides that the State will guarantee appropriate access to education to all citizens, regardless of disabilities, from nursery school to university level. This provision applies to both public and private education in every sector of the national educational system. The Ministry of Public Education is responsible for promoting the preparation of programmes to meet special educational needs and is required to supervise the process at all levels of care.

182. The Act also provides that educational establishments must make the necessary adjustments, and provide the services required, to ensure that the right to education is a real one. The adjustments and support services which may be necessary include specialized human resources, curriculum adjustments, evaluations, methodologies, teaching aids and buildings. Requirements will be defined by the staff of each educational establishment with the assistance of specialist technical advisers.

183. The Act also provides that persons with special educational needs may receive their education in the Regular Educational System with the requisite support services. Students who are unable to meet their needs in classroom work will be provided with suitable services - including those provided in special teaching establishments - guaranteeing their development and wellbeing.

184. The provisions of this Act are of considerable importance, since 10 per cent of the population of Costa Rica is suffering from a handicap of some kind. Twenty-five per cent of all handicapped persons are children or adolescents, and hundreds of them have no access to services providing individual and specialist care.

185. Clearly the Equality of Opportunity for Handicapped Persons Act has made an effective contribution to the development of a more tolerant society and is thus an important milestone in the country's history.

186. Under this Act the State, through the National Children's Trust, is required to guarantee the provision of all the support and technical aids required for the achievement of a maximum of autonomy and participation in society in conditions of dignity.

187. Of all the children and adolescents cared for by the PANI under its different protection programmes - hostels, centres, villages, "little homes" ("hogarcitos"), private organizations - 25 per cent have some form of disability (Naranjo, 1994). At the national level, according to a 1994 UNICEF report, it is estimated that 25 per cent of all handicapped persons are children. The data available indicates that the incidence of disabilities has been increasing in recent years (a 6 per cent increase between 1990 and 1993).